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Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265

ORDINANCE NO. 1764

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2004, BY REPEALING TITLE 8, BUILDING REGULATIONS, CHAPTER 2 BUILDING CODES, ARTICLE E, PROPERTY MAINTENANCE CODE, CONSISTING OF THE 2003 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND IN LIEU THEREOF ADOPTING THE 2006 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, REGULATING THE USE AND OCCUPANCY, LOCATION AND MAINTENANCE OF ALL BUILDINGS AND STRUCTURES WITHIN THE CITY OF WEST DES MOINES, IOWA; PROVIDING FOR THE ISSUANCE OF RENTAL HOUSING CERTIFICATES AND THE COLLECTION OF FEES THEREFORE; AND DESCRIBING THE POWERS AND DUTIES OF THE BUILDING DIVISION.

Be it ordained by the City Council of the City of West Des Moines, Iowa:

Section 1, Title 8, Chapter 2, Article E, **Property Maintenance Code** is hereby repealed and replaced by the following:

SECTION:

8-2E-1: Adoption of Property Maintenance Code	8-2E- 7: Building Security
8-2E 2: Amendments to the Code	8-2E- 8: Appeals
8-2E-3: Administration	8-2E- 9: Liability for Damages
8-2E-4: Authority to Inspect	8-2E-10: Savings Clause
8-2E 5: Rental Housing	8-2E-11: Violation of Ordinance
8-2E 6: Property Maintenance & Safety	8-2E-12: Effective Date

8-2E-1: ADOPTION OF PROPERTY MAINTENANCE CODE:

- A. This Article shall consist of the International Property Maintenance Code, 2006 Edition, published by the International Code Council and known commonly and referred to herein as the International Property Maintenance Code, which volumes are incorporated herein in their entirety, excepting only such portions as are hereinafter stated to be deleted there from; and such additional or amended provisions as are hereinafter set forth.
- B. This Article, and all provisions incorporated herein by reference or otherwise, shall be known as the Property Maintenance Code, may be cited as such, and will be referred to herein as such and as "this Code." Further references made herein to chapters will be to chapters of the Property Maintenance Code. References to section numbers not preceded by "8-2E" will be sections in the Property Maintenance Code.

8-2E-2: AMENDMENTS TO THE CODE:

The remaining sections in this Article are and represent amendments to the requirements contained in the International Property Maintenance Code (IPMC), and where their requirements conflict with those of the IPMC, the requirements of this Article shall prevail.

8-2E-3: ADMINISTRATION:

In Section 101.1, Title, insert City of West Des Moines as the name of jurisdiction.

Amend Section 102 of the IPMC, “APPLICABILITY, Sub-section 102.1 General,” by inserting the following after the first paragraph:

1. OTHER LAWS: The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.
2. PARTIAL INVALIDITY: In the event that any part or provision of this code is held to be illegal or void, this shall not cause any other part or provision of this code to be illegal or void.

Amend Section 103.1, General provisions, by deleting “The Department of Property Maintenance Inspection” and inserting “Building Division,” and by replacing code official with Building Official.

Amend Section 103.5, Fees, by inserting the following:

All fees due the City for permits or rental housing certificates, as determined by City Council Resolution, shall be collected in the Building Division and forwarded to the City Administrative Services Department.

8-2E-4: AUTHORITY TO INSPECT:

Amend Section 104.3 of the IPMC, Inspections, by adding the following provision:

Personnel currently employed by the City of West Des Moines and actively working in the Building Division as a Building Inspector, Building Official, or any similar position as determined by the City, are hereby deemed as qualified, certified, licensed, or otherwise authorized to perform electrical, mechanical, plumbing, fire, building, rental housing, and property maintenance inspections, and to perform any similar duties necessary to enable compliance with the adopted code provisions of the City, and to fulfill the duties and responsibilities specifically listed in the job descriptions of said personnel.

8-2E-5: RENTAL HOUSING:

Amend Section 301 of the IPMC, General Requirements, by adding the following rental housing provisions:

RENTAL INSPECTION CERTIFICATE REQUIRED: No person shall rent, lease, let, operate or otherwise allow the occupancy of any dwelling unit or any portion of any dwelling unit (including single rooms) unless they hold a valid rental inspection certificate. The preceding language does not preclude relatives, or similar persons from occupying a portion of an owner occupied single family dwelling unit, which complies with the single family rental housing criteria listed in this section.

FAILURE TO ACQUIRE OR RENEW RENTAL CERTIFICATE: The City is not involved in or a party to property sales, changes in ownership, or rental agreements. Therefore, it is the responsibility of the property owner/agent to ensure that their rental properties have valid rental inspection certificates. Failure to acquire or renew the required rental certificate may result in notice being sent to the property owner that the specified address is an illegal rental. This action may include posting notice on the property as an illegal rental with door hangers, yard signage or similar signs, and providing notice to the tenant that the property they occupy has not been approved by the City as a legal rental property.

NEW UNITS: New construction projects, which have received final inspection approval and have been issued a Certificate of Occupancy, shall be considered to be in compliance with rental inspection certificate and fee requirements for a period of two (2) years from the issue date.

REQUIRED OWNER/AGENT INFORMATION: Owners of residential rental property in the City, who reside in Polk or Dallas County, Iowa, or any county contiguous thereto, shall provide the Building Division with their physical addresses, telephone numbers, fax numbers, and e-mail addresses, if available. Owners of residential rental property in the City who reside in any area other than described above, shall provide the Building Division with the name and physical address of an individual over the age of 18 who shall reside in Polk or Dallas County, Iowa, or any county contiguous thereto, and who shall be designated as agent for scheduling inspections, receiving notice, and service of process. A new owner shall provide the information required in this subsection with five days from the date of any change of ownership. Failure to give said notice will render the rental certificate null and void. Re-inspection and the associated fees shall be required to re-instate the rental certificate. The previous owner shall disclose this requirement to a new owner.

ACKNOWLEDGMENT FORM: A copy of this ordinance, which includes the rental inspection provisions, and a copy of the rental inspection checklist will be provided to all rental property owners. Prior to issuance of a rental inspection certificate, the owner or the owner's agent shall sign the acknowledgment form, which states that they have received the rental housing provisions and understand their responsibilities as described therein.

RENTAL INSPECTION SCHEDULE: The Building Division shall seek to inspect every residential rental dwelling within the corporate limits of the City every two years. As part of the inspection process, the City may determine to extend or shorten the timeframe to the next scheduled inspection. Factors that may influence the City to inspect more or less frequently include, but are not limited to, the following:

- (a) Age and condition of dwelling
- (b) Inspection history
- (c) Tenant / management complaints
- (d) Natural disasters such as flooding
- (e) Timely inspection scheduling, follow-up and fee payment by the owner
- (f) In house inspection and maintenance program by the owner that includes specific life/safety provisions
- (g) Maintain the "Crime-Free Multi-Housing" designation as established through the West Des Moines Police Department

It is the responsibility of the property owner/agent to ensure that their rental properties have a valid rental inspection certificate. However, the City may schedule inspection appointments with the owner or agent of the property by regular mail, facsimile, or e-mail, a minimum of thirty days in advance of the inspection. It shall be the owner or agent's responsibility to notify all tenants of the inspection date and time, in accordance with Iowa law.

INSPECTION PROCEDURES: Inspections shall not be conducted with a minor as the sole representative of the owner. Inspections shall not be conducted against the will of the tenant without the building owner or agent present. Inspections shall not be conducted without prior notice to the tenant, as required by State law

RENTAL HOUSING COMPLAINTS: When receiving or responding to complaints from rental property tenants, the City will typically intervene only if the tenant has presented their concerns in writing to the management/owner with a seven (7) day notice to respond, and the management/owner has failed to respond.

Exception: Life/safety issues such as smoke detectors, blocked exits, exposed wiring, or similar.

DENIAL OF RENTAL CERTIFICATE FOR VIOLATIONS: Issuance or renewal of a rental certificate may be denied if the applicant, or a subsidiary firm, partnership, or corporation owns one or more properties within the City in which the owner has been notified of violations, but has not corrected said violations, including but not limited to failure to have current rental certificates.

FEES: All fees due the City for permits or rental housing certificates, as determined by City Council Resolution, shall be collected in the Building Division and forwarded to the City Administrative Services Department. Rental inspection fees are due within 30 days of the inspection or billing date. Investigation fees, as described in the City Council Fee Resolution as equal to and in addition to the calculated inspection fee, shall apply for failure to pay rental inspection fees within 30 days.

ISSUANCE, DURATION, & VALIDATION: If the premises are found to comply with the requirements of this Code and the fees are paid, a rental inspection certificate shall be issued and valid for two (2) years from initial inspection, or from the listed expiration date.

EXPIRATION DATE: Every certificate shall expire at the end of two years following its date of issuance, or from the listed expiration date, unless suspended or revoked as hereinafter provided.

REVOCATION OF RENTAL CERTIFICATE: The rental certificate may be revoked for violation of the requirements listed in this document, which includes the provisions of the International Property Maintenance Code (IPMC).

DISPLAY REQUIREMENT: Every rental inspection certificate issued under the authority of this chapter shall be displayed and/or made available by the owner, for a tenant to examine, before any dwelling unit may be rented, leased, or otherwise occupied.

SINGLE FAMILY HOUSING CRITERIA: The West Des Moines Zoning Ordinance and Official Zoning Map currently designate where single family (one family) dwelling units, two-family dwelling units, and multiple dwelling units may be located within the city. The zoning ordinance definitions are also utilized as approval criteria for determining where rental units may be located.

The following zoning ordinance definitions are utilized to establish whether a dwelling unit meets current zoning and rental housing criteria:

Family: Any number of individuals living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel.

One Family Dwelling: A detached building, on a building site, designed for and used exclusively for residential purposes by one family and containing one dwelling unit.

Dwelling Unit: One or more habitable rooms which are occupied or are intended and designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

Kitchen: Any room or portion of a building used, intended or designed to be used for cooking and preparation of food, including any room having a sink and provisions for either a gas or electric stove.

In addition to the above definitions, the following criteria shall be utilized to determine if the intent of the zoning requirements have been met for single family (one-family) dwelling units:

1. There shall not be more than one lease between the property owner and the tenant (tenants) for each single family zoned property address. Sub-leases between tenants are a private issue and shall not be subject to City scrutiny, provided all other criteria have been met.

2. There shall not be more than one kitchen for each single family zoned property address.
Exception: Additional sinks, wet-bars, or kitchen areas will not be considered an additional kitchen provided walls, floors, and locking doors, as specified below, do not separate the dwelling into multiple tenant use.
3. There shall not be more than one electric meter, gas meter, or water meter for each single family zoned property address.
4. There shall not be any walls or floor/ceiling assemblies in any single family zoned property address, which separate the one-family dwelling into more than one unit. Determining factors shall include locked or locking interior doors and separate entrances, which make portions of the unit inaccessible to all “family” members.

8-2E-6: PROPERTY MAINTENANCE AND SAFETY:

Amend Section 302, Exterior Property Areas, by adding the following provision:

Owners and/or tenants of single-family dwellings shall remove snow and ice from the sidewalks associated with the property they own or occupy within a reasonable time but in no case more than twenty-four (24) hours following the weather event by which the snow and ice was deposited.

Owners of multi-family dwellings shall remove snow and ice from the sidewalks associated with the property they own within a reasonable time but in no case more than twenty-four (24) hours following the weather event by which the snow and ice was deposited.

In Section 302.4, Weeds, insert 10 inches as the maximum weed and plant growth height.

Amend Section 303.2, Swimming Pools, Spas and Hot Tubs, by deleting the first sentence of the section and inserting the following language:

Swimming pools, hot tubs and spas, containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier at least 48 inches in height for above ground pools and 72 inches in height for in-ground pools. The height shall be measured on the side of the barrier away from the pool.

Amend Section 304.14, Insect Screens, by inserting April 15th to October 15th as the applicable dates.

Amend Section 306.1, Handrails and Guardrails, by deleting the provisions, which relate to guards (guardrail) and handrail height, and inserting the following language:

Guard (guardrail) height shall not be less than 36 inches and public or common areas in multi-family dwellings shall not be less than 42 inches. Open guards shall have intermediate rails or ornamental closures which do not allow passage of a sphere 4 inches in diameter.

Handrail height, measured vertically from the sloped plane adjoining the tread nosing or finish surface of a ramp slope, shall not be less than 34 inches and not more than 38 inches.

Exception: For buildings constructed prior to 1980, handrails and guardrails, which are structurally sound, may provide the same height and opening protection as was required by the Building Code when the structure was originally constructed.

In Section 602.3, Heat Supply, insert September 1st through May 30th as the dates when the heat supply shall be available for dwellings.

In Section 602.4, Occupiable Work Spaces, insert September 1st through May 30th as the dates when the heat supply shall be available.

Amend Section 605.2, Receptacles, by adding the following provision:

In rental dwelling units, all outlets in bathroom areas, unfinished basements, kitchens, and exterior locations, shall be GFCI protected.

8-2E-7: BUILDING SECURITY:

Amend Section 304.18, Building Security, 304.18.1 Doors, 304.18.2 Windows, and 304.18.3 Basement Hatchways by adding the following provision to each section:

The provisions of this section shall apply to new residential rental projects. Documentation for compliance with these requirements shall be provided as a separate submittal form prior to project approval.

Amend Section 304.18.1, Doors, by adding the following provisions:

1. Latch plates for door locks and deadbolts shall be installed with lag screws, or similar, at least 3 inches in length, and capable of attaching through the door frame at least 1 ½ inches into the stud wall framing.
2. Sliding patio doors at grade level shall have foot bolt locks, or similar locks.
3. View ports capable of a 180 degree viewing angle shall be installed in all rental dwelling unit doors.

8-2E-8: APPEALS:

Delete Section 111 of the IPMC, Means of Appeal, and in lieu thereof the following criteria shall apply:

Appeals Procedure:

Any person aggrieved by the decision of the Building Official may appeal the decision to the Municipal Code Appeals Officer as set out in Title 4, Chapter 4, Section 9, of the City Code. The appeal shall be completed by filing a written notice of appeal with the City Clerk within fourteen (14) days from the date of issue of the written decision by the Building Official. For appeal purposes, the date of issue shall be the date the Building Official signs, dates, and mails the written decision. Failure to file a timely notice of appeal as required herein shall constitute a waiver of the right to appeal and the decision of the Building Official shall be final.

The notice of appeal shall clearly set forth with specificity each and every ground that serves as the basis for the appeal, and it shall be accompanied by copies of plans, specifications, or any pertinent information which may be required to adequately evaluate the appeal. Any matter not specifically raised in the notice of appeal shall be deemed to be final and shall not be reviewed by the Municipal Code Appeals Officer.

The notice of appeals shall also be accompanied by a \$100.00 filing fee for administrative and publication costs.

Upon receipt of a timely filed notice of appeal, the City Clerk shall schedule the appeal for hearing before the Municipal Code Appeals Officer. Written notification of the time, place and nature of the hearing shall be given to the petitioner within five (5) working days after the written petition is filed with the City Clerk.

The hearing shall be scheduled no later than twenty (20) working days after the date on which the written petition was filed and may be extended for a reasonable period by the Municipal Code Appeals Officer's discretion, or upon written request from the petitioner or the Building Official, for good cause shown.

In the event that an ambiguity arises as to an interpretation of the code, the Municipal Code Appeals Officer may interpret the code as applied to the specific instance presented. Such decisions shall be on a case-by-case basis and shall not be binding in future case.

The Municipal Code Appeals Officer shall not waive any requirements of the code unless the Municipal Code Appeals Officer concludes that the provision(s) is unduly burdensome or impracticable under the circumstances. Such decisions will also be on a case-by-case basis and shall not be binding in future cases.

Hearing Procedure:

The procedures provided in Title 4, Chapter 4, Section 9(E) of the City Code shall apply to hearing held under this Chapter.

8-2E-9: LIABILITY FOR DAMAGES:

- A. This Code is enacted only for the purpose of securing to individuals the enjoyment of rights and privileges to which they are entitled as members of the public, rather than for the purpose of protecting any individual from harm.
- B. Issuance of a permit or certificate of occupancy shall not be construed as approval of a violation of the provisions of this code, other ordinances of the jurisdiction, or of any State or Federal mandates regarding energy, accessibility, or similar provisions. Certificates presuming to give authority to violate or cancel the provisions of this code, other ordinances of the jurisdiction, or any State or Federal mandates shall not be valid.
- C. The City, its officers, employees or agents make no representations or warranties of any kind whatsoever, expressed or implied, with respect to the completeness or thoroughness of the inspections and examinations performed under this Code but said inspections are made solely to assist the owner of any building, structure, equipment and premises to meet certain minimum requirements of this Code and to compel, if necessary, the owner to meet the minimum requirements for the protection of the health, welfare and safety of persons and property. Nothing herein contained in this Code shall alleviate the owner of any building, structure, equipment and premises to make an independent inspection in order to fulfill the requirements of this Code nor shall this Code be construed to relieve or lessen the responsibility of any person owning, operating or controlling any building, structure, equipment or premises regulated herein from any damages to any person or property caused by defects or code violation. The City, its officers, employees or agents shall not be held as assuming any liability for damages to any person or property by reason of any inspections authorized by this Code or investigations, or any approvals issued herein, or for any act or failure to act in the enforcement of this Code.

8-2E-10: SAVINGS CLAUSE:

If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

8-2E-11: VIOLATION OF ORDINANCE:

Violations of this chapter are simple misdemeanors and are punishable by a fine not to exceed five hundred dollars (\$500.00) and /or a term of imprisonment not to exceed thirty (30) days. Violations of this chapter are also declared to be municipal infractions and may be punishable as provided in Title 1, Chapter 4, of the City Code.

8-2E-12: EFFECTIVE DATE:

This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed and approved this 16th day of July, 2007.

Steven K. Gaer, Mayor

ATTEST:

Jody E. Smith, CMFA, MMC
City Clerk